

SEARCH WARRANT

IN THE MATTER OF

PROTECT MANAGEMENT, LLC

Date Issued
03/01/2011 Time Issued
4:30 ☐ AM ☒ PMName Of Applicant
SPECIAL AGENT SAM CABRERA

Name Of Additional Affiant

Name Of Additional Affiant

RETURN OF SERVICE

I certify that this Search Warrant was received and executed as follows:

Date Received
3/1/2011 Time Received
4:30 ☐ AM ☒ PMDate Executed
3/1/2011 Time Executed
4:51 ☐ AM ☒ PM

I made a search of

Bank of America Corp

421 Fayetteville St, Suite 201

Raleigh, NC 27601

as commanded.

☒ I seized the items listed on the attached inventory.☐ I did not seize any items.☐ This Warrant WAS NOT executed within forty-eight (48) hours of the date of issuance and I hereby return it not executed.

Signature Of Officer Making Return

Department Or Agency Of Officer

Incident Number

NC Secretary of State

AOC-CR-119, Rev. 9/02

© 2002 Administrative Office of the Courts

STATE OF NORTH CAROLINA

WAKE

County

In The General Court Of Justice
District/Superior Court Division

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:

I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as described in the application.

You are commanded to search the premises, vehicle, person and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and keep the property subject to Court Order and process the person according to law.

You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make due return to the Clerk of the Issuing Court.

This Search Warrant is issued upon information furnished under oath by the person(s) shown.

Date
3/1/11 Signature
[Signature] Deputy CSC ☐ Assistant CSC ☐ CSC ☒
Magistrate ☐ District Ct. Judge ☐ Superior Ct. Judge ☒

This Search Warrant was returned to me on the date and time shown below.

Date
3/2/11 Time
10:38 ☐ AM ☒ PM Signature
[Signature] Deputy CSC ☐ Assistant CSC ☐
Clerk Of Superior Court

(Over)

APPLICATION FOR SEARCH WARRANT

1. SAM CABRERA, SPECIAL AGENT, NC Secretary of State

(insert name and address, or if law enforcement officer, name, rank and agency)

being duly sworn, request that the Court issue a warrant to search the person, place, vehicle, and other items described in this application and to find and seize the property and person described in this application. There is probable cause to believe that *(Describe property to be seized, or if search warrant is to be used for searching a place to serve an arrest warrant or other process, name person to be arrested)*

constitutes evidence of a crime and the identity of a person participating in a crime, *(Name crime)* UNIFORM ATHLETE AGENTS ACT VIOLATIONS

and is located *(Check appropriate boxes) and fill-in specified information)*

☒ in the following premises *(Give address and, if useful, describe premises)*

BANK OF AMERICA

421 FAYETTEVILLE STREET, SUITE 101, RALEIGH, NC

(and)

☐ on the following person(s) *(Give name(s) and, if useful, describe person(s))*

(and)

☐ in the following vehicle(s) *(Describe vehicle(s))*

(and)

☐ *(Name and/or describe other places or items to be searched, if applicable)*

The applicant swears to the following facts to establish probable cause for the issuance of a search warrant:
SEE ATTACHMENT III OF AFFIDAVIT OF PROBABLE CAUSE BY SPECIAL AGENT SAM CABRERA.

SWORN AND SUBSCRIBED TO BEFORE ME

Date

3/1/11

Date 3/1/2011

Signature of Applicant

(Signature)

☐ Magistrate

☐ Dep. CSc

☐ Asst. CSc

☐ Clerk of Superior Court

☒ Judge

☐ In addition to the affidavit included above, this application is supported by additional affidavits, attached, made by _____

☐ In addition to the affidavit included above, this application is supported by sworn testimony, given by _____

This testimony has been *(check appropriate box)* ☐ reduced to writing ☐ tape recorded and I have filed each with the clerk.

NOTE: If more space is needed for any section, continue the statement on an attached sheet of paper with a notation saying "see attachment." Date the continuation and include on it the signatures of applicant and issuing official.

APPLICATION FOR SEARCH WARRANT

In the Matter of **Pro Tect Management, LLC and Gary Wichard**

ATTACHMENT I


PROPERTY TO BE SEIZED

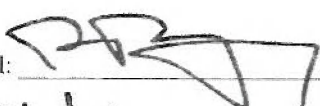
I. Certain property and documents, to wit:

Copies of certain financial record documents, to wit: account signature cards, safe deposit boxes, canceled checks (including certified checks and receipts), monthly bank statements, credit card statements of account, deposit tickets and credits, items of deposit, offset items, ledgers, statements, stubs, drafts from other banks or financial institutions, confirmations of wire transfers or any other wire transfer records documenting deposits or disbursements (including receipts and advises and transfer request records), debit and credit memoranda, correspondence and any and all other records and documents pertaining to any and all accounts including checking, savings, money market (including certificates of deposit) and credit card accounts in the name of, or controlled by, the following persons or entities, together with official bank checks (dividend, cashiers, expense, loan and money orders) obtained with checks made payable to the following persons or entities:

**Pro Tect Management, LLC
Gary Wichard**

At Bank of America, located in North Carolina, for the period extending from January 1, 2009 through the present date, including but not limited to any and/or all accounts held in the name of the above persons and/or entity at Bank of America.


Sam Cabrera, Affiant

Issuing Official: 

Date: 3/1/11

APPLICATION FOR SEARCH WARRANT

In the Matter of **Pro Tect Management, LLC** and **Gary Wichard**

ATTACHMENT II

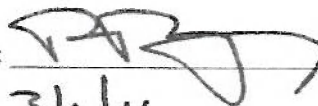
IN THE FOLLOWING PREMISES:

Bank of America Corporation
421 Fayetteville Street, Suite 101
Raleigh, NC 27601



Sam Cabrera, Affiant

Issuing Official:



Date:

3/1/11

APPLICATION FOR SEARCH WARRANT

In the Matter of **Pro Tect Management, LLC and Gary Wichard**

ATTACHMENT III

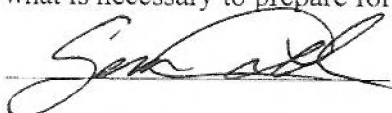
AFFIDAVIT TO ESTABLISH PROBABLE CAUSE

I, Sam Cabrera, do hereby depose and say: that I am a Special Agent of the Department of the Secretary of State of North Carolina. For the past thirty-three months I have been assigned to the Securities Division and have been charged with conducting investigations involving violations of the North Carolina Investment Advisers Act (Chapter 78C of the General Statutes) and North Carolina Securities Act (Chapter 78A of the General Statutes) pursuant to N.C.G.S. §§78A-46(a) and 78A-57. I previously worked for the North Carolina Department of Revenue for six years as a Revenue Field Officer and a Revenue Field Auditor. As a Revenue Field Officer, I successfully identified delinquent taxpayers, charged and assisted in their conviction for Failure to File and Pay business taxes through the North Carolina Justice System. As a Revenue Field Auditor, I successfully identified, audited, and assessed businesses that did not register to file taxes, under reported their business taxes, or failed to report business taxes. In the past thirty-three months, I have successfully conducted investigations involving violations of the North Carolina Securities Act and Investment Advisers Act. I have applied for and served several search warrants pertaining to securities violations. I have received instruction on criminal investigation and the laws of search and seizure from Wake Technical Community College's Basic Law Enforcement Training. I have attended three training programs that were developed specifically for investigators and attorneys who specialize in securities law enforcement conducted by the North American Securities Administrators Association.


BACKGROUND OF THE CASE

Pro Tect Management, LLC ("PTM") is a California Limited Liability Company that was organized in 2000 by Gary Wichard, who is the managing member. PTM's current address is 30699 Russell Ranch Road, Suite 210, Westlake Village, CA 91362. PTM purports to be one of the nation's premier sports management agencies. PTM states it represents athletes from the NFL, NBA, and MLB.

Gary Wichard ("Wichard") is the managing member of PTM. PTM's website (www.protectmanagement.com) has Wichard's biography as follows: "Pro Tect Management was founded by Gary Wichard, in 1980. As well as being recognized as one of the most well-respected and knowledgeable agents in the field of sports management, Wichard was also an Associated Press and Kodak All-American quarterback at C.W. Post College in New York. After playing in the Senior Bowl All-Star game in Mobile, Alabama, he was then drafted by the National Football League's Baltimore Colts. As a sports agent, Wichard not only understands what is necessary to prepare for a career in the NFL, but has actually lived through these



Sam Cabrera, Affiant

Issuing Official: 

Date: 3/1/11

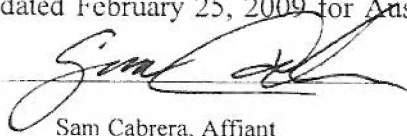
experiences himself. Wichard prides himself on his ability to Maximize and Elevate an athlete's draft day status through a well orchestrated GAMEPLAN and serious preparation and attention to detail. Respected for having played the game, Gary has built long-standing relationships with NFL General Managers and Coaches. Gary is known as the best in the business when it comes to marketing his clients. This is substantiated by his unique ability to utilize the national media in a way to increase the profile of his players, from the NFL to Hollywood."


On September 17, 2010, the affiant interviewed a University of North Carolina at Chapel Hill ("UNC") student-athlete by the name of Marvin Austin ("Austin"). Austin stated he traveled to California in March 2009 and July 2009 to visit his friend, Kentwan Balmer ("Balmer"), who is a National Football League ("NFL") player and was a former UNC football player. Austin stated he contacted his former assistant high school coach, Todd Amis ("Amis"), to pay for both of his round trip flights to California. Austin stated Amis paid a travel agency by the name of Altour International, Inc. ("Altour") for the flights to California. Austin stated he and Balmer stayed at the Marriott Residence Inn hotel in California. Austin stated Balmer paid for Austin's stay at the hotel. Austin stated he briefly spoke with athlete agent Wichard of PTM on both trips while he and Balmer were at a training facility called Pro Active Sports ("PAS"). Austin stated he did not pay to train at PAS. Austin stated Balmer paid for him to train at PAS.

On September 28, 2010, the affiant interviewed NFL player Balmer. Balmer stated he invited Austin to come visit him in California in March and July of 2009. Balmer stated he believed Amis paid for both of Austin's round trip flights to California. Balmer stated Austin stayed in his hotel room at the Marriott Residence Inn hotel during Austin's visits. Balmer stated he paid for the hotel. Balmer stated he was already staying in the hotel room prior to Austin's arrival on both trips. Balmer stated he was training at PAS. Balmer stated he and Austin did train at PAS. Balmer stated he paid for Austin to train at PAS on both trips. Balmer stated Austin did not meet Wichard during his first visit to California. Balmer stated Austin met Wichard in July 2009 while they were training at PAS. Balmer stated Wichard did not pay or reimburse him for any expenses incurred by Austin's visits to California.

On October 5, 2010, the affiant interviewed athlete agent Wichard. Wichard stated his first contact with Austin was over the phone in January 2009. Wichard stated he and Austin have had several phone conversations since he first made contact with Austin in January 2009. Wichard stated he did not physically meet Austin until Austin's second visit to California in July 2009. Wichard stated Austin came to California to visit Balmer. Wichard stated he met Austin at PAS. Wichard stated Austin and Balmer were training at PAS. Wichard stated he brought Balmer a pair of shoes that day. Wichard stated he, Balmer, and Austin had a brief exchange prior to their workout. Wichard stated Austin stayed with Balmer in Balmer's hotel room. Wichard stated Balmer paid for the hotel room Balmer and Austin stayed in. Wichard stated he had never provided anything of value to Austin. Wichard stated he was not currently a registered Athlete Agent in the State of North Carolina.

On November 29, 2010, the Securities Division received flight and payment information for the two flights Austin took to California from Altour. The information showed an invoice dated February 25, 2009 for Austin to fly to California on March 6, 2009 and return on March


Sam Cabrera, Affiant

Issuing Official: 

Date: 3/1/11

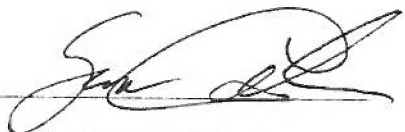
15, 2009. The amount of that invoice was \$906.40. Altour provided a copy of a check from Amis dated March 1, 2009 for the amount of \$906.40. Altour also provided another invoice dated July 17, 2009 for Austin to fly to California on July 22, 2009 and return on August 1, 2009. The amount of that invoice was \$1,436.40. Altour provided a copy of a check from Amis dated July 22, 2009 for the amount of \$1,436.40.

Regarding Austin's March 2009 flight to California, Altour provided two invoices (March 4th and 11th 2009) that showed PTM paid for changes to Austin's flight itinerary to and from California. The itineraries showed Austin leaving for California on March 7, 2009 instead of March 6, 2009 and Austin returning to North Carolina on March 14, 2009 instead of March 15, 2009. Altour provided a copy of a check from PTM dated March 12, 2009 that paid for both invoices in the total amount of \$915.40.

On December 20, 2010, the affiant interviewed Austin's former assistant high school coach Amis. Amis stated he paid for Austin's flights to California. Amis stated he was contacted by Austin about the California trips. Amis stated Austin provided him with Altour's contact information. Amis stated he contacted Altour and they sent him the invoices. Amis stated he paid for Austin's flights in March 2009 and July 2009 by check made payable to Altour. Amis provided two invoices from Altour in the amount of \$906.40 (March 2009) and \$1,436.40 (July 2009).

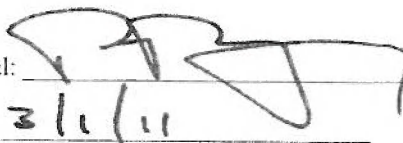
Amis stated he was reimbursed by Wichard for Austin's March 2009 flight to California. Amis stated he received a brief call from Wichard after Austin's March 2009 trip. Amis stated Wichard thanked him for sending Austin to California. Amis stated Wichard said that he would be mailing him a check for the amount he paid for Austin's flight. Amis provided a canceled check from PTM dated March 3, 2009 in the amount of \$1,000. The check was signed by Wichard.

The North Carolina Department of the Secretary of State Securities Division registers and regulates the conduct of athlete agents pursuant to Article 9 (the "Uniform Athlete Agents Act") of Chapter 78C. On February 17, 2011, the affiant was told by Mary L. Wilson, Registrar of the North Carolina Department of the Secretary of State Securities Division, that Ms. Wilson searched the records and files of the Athlete Agent Program and determined that Wichard was previously a North Carolina registered Athlete Agent but that Wichard's registration had expired on December 31, 1998. Ms. Wilson told the affiant that as of December 31, 1998, Ms. Wilson was unable to find any records showing that Wichard had renewed his registration or filed any subsequent applications to register under the North Carolina Uniform Athlete Agents Act.



Sam Cabrera, Affiant

Issuing Official:



Date:

3/1/11

PROBABLE CAUSE TO BELIEVE A CRIME HAS BEEN COMMITTED

1. N.C.G.S. §78C-98(a) states:

“An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, shall not:

- (1) Give any materially false or misleading information or make a materially false promise or representation.
- (2) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract.
- (3) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.”

- There is probable cause to believe that PTM and Wichard furnished items of value to Austin, to wit:

- (i) On March 12, 2009, a check in the name of PTM was made payable to Altour for the amount of \$915.40 for changes in Austin’s flight itinerary to and from California in March 2009.


- There is probable cause to believe that PTM and Wichard furnished something of value to any individual other than the student-athlete or another registered athlete agent, to wit:

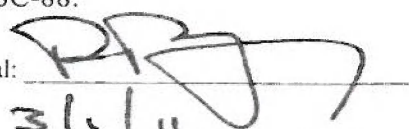
- (i) In March 2009, Wichard reimbursed Amis for Austin’s March 2009 flight to and from California in the amount of \$1,000.

2. N.C.G.S. §78C-98(b) states:

“An athlete agent shall not intentionally:

- (1) Initiate contact with a student-athlete unless the athlete agent is registered under this Article.
- (2) Refuse or fail to retain or permit inspection of the records required to be retained by G.S. §78C-97.
- (3) Fail to register as required by G.S. §78C-88.


Sam Cabrera, Affiant

Issuing Official: 

Date: 3/1/11

- (4) Provide materially false or misleading information in an application for registration or renewal of registration.
 - (5) Predate or postdate an agency contract.
 - (6) Fail to notify a student-athlete before the student athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication shall make the student-athlete ineligible to participate as a student-athlete in that sport. (2003-375, s. 2.)”
- There is probable cause to believe that PTM and Wichard failed to register as required by G.S. §78C-88(b), to wit:
 - (i) Wichard stated he had several phone conversations with Austin starting in January 2009 while Austin was still a student-athlete. Wichard never registered within seven days after his initial contact with Austin or anytime thereafter.


**PROBABLE CAUSE TO BELIEVE EVIDENCE OF THE
CRIME IS LOCATED AT BANK OF AMERICA.**


On November 29, 2010, Altour provided the affiant a copy of an invoice and a canceled check from PTM's Bank of America ("BOA") bank account (0582703962) made payable to Altour for the payment of Austin's March 2009 flight changes to and from California.

On January 9, 2011, Amis provided the affiant with a copy of a canceled check from PTM's BOA bank account (0582703962) made payable to Amis as reimbursement for Austin's March 2009 flight to and from California.

On February 18, 2011, pursuant to the North Carolina Financial Privacy Act, the affiant called the BOA's Investigative Services Department. The affiant spoke with Daniel (operator number 50054) and inquired about the existence of account number 0582703962 with BOA in the name of PTM. Daniel confirmed the account number and PTM did match and did exist at BOA.

It is reasonable and prudent to expect that the items requested pursuant to this search warrant are maintained within the custody of BOA. United States Treasury and North Carolina Banking Commission regulations (implementing Title I and Title II of the United States Public Law 91-508 [12 U.S.C. 1829b] and 4 N.C.A.C. 3C.0903 implementing N.C.G.S. §53-110, respectively) mandate that the following information on demand (checking) accounts, savings accounts and time deposit accounts, and credit card accounts be maintained for a period of five (5) years:


Sam Cabrera, Affiant

Issuing Official: 

Date: 3/1/11

- a. signature cards;
- b. statements, ledger cards, or other records disclosing all account transactions both deposit and withdrawal; and
- c. copies of all checks, drafts, money orders and cashiers checks drawn from or against funds within each account.


Further, it is required that the following information be maintained for a period of two (2) years:

- a. all documents necessary to reconstruct activity within a checking account including copies of deposit tickets; and
- b. all documents necessary to trace and supply the description of a check or other item deposited into a checking account

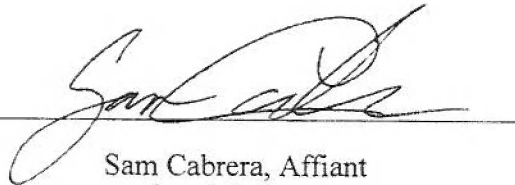
Through training and experience, the affiant has probable cause to believe that Wichard and PTM have used this bank account at BOA to provide items of value in violation of the Uniform Athlete Agents Act. The affiant is also aware that evidence of such criminal violations are usually found within the bank records of accounts used by athlete agents and that such agents often maintain multiple accounts through which transactions related to these schemes flow. Evidence related to the identification of culpable involved parties and to the full scope and nature of the scheme is also routinely found in the bank records of athlete agents. Therefore, the affiant has probable cause to believe that accounts at BOA will contain evidence of criminal violations of the Uniform Athlete Agents Act. Based on this affidavit, the affiant respectfully requests the Court to issue a search warrant for evidence of violations of the Uniform Athlete Agents Act found in accounts at BOA.



Sam Cabrera, Affiant

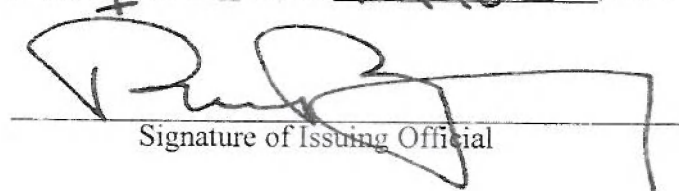
Issuing Official: 

Date: 3/1/11




Sam Cabrera, Affiant
Special Agent
Department of the Secretary of State


Sworn to and subscribed before me, this the

1st day of March, 2011


Signature of Issuing Official



Sam Cabrera, Affiant

Issuing Official: 

Date: 3/1/11

STATE OF NORTH CAROLINAFile No. WAKE County

In The General Court Of Justice

☐ District ☒ Superior Court Division**IN THE MATTER OF:**

Name

PRO TECT MANAGEMENT, LLC

**INVENTORY OF ITEMS SEIZED
PURSUANT TO SEARCH**

G.S. 15A-223, 15A-254. -257

I, the undersigned officer, executed a search of:

Person, Premises Or Vehicle Searched

Bank of America, 421 Fayetteville Street, Suite 100, Raleigh, NC 27601

Date Of Search

03/01/2011

This search was made pursuant to

- ☒ 1. a search warrant issued by: SUPERIOR COURT JUDGE RIDGEWAY
- ☐ 2. consent to search given by: _____
- ☐ 3. other legal justification for the search: _____

The following items were seized:

NOTE: This is a search warrant for bank records. Supplemental inventory sheets will be filed as records are received.

Items Seized Continued:

☒ 1. I left a copy of this inventory with the person named below, who is:

- ☐ a. the owner of the premises searched.
- ☐ b. the owner of the vehicle searched.
- ☒ c. the person in apparent control of the premises searched.
- ☐ d. the person in apparent control of the vehicle searched.
- ☐ e. the person from whom the items were taken.

☐ 2. As no person was present, I left a copy of this inventory:

- ☐ a. in the premises searched, identified on the reverse.
- ☐ b. in the vehicle searched, identified on the reverse.

Name And Address Of Person To Whom A Copy Of This Inventory Was Delivered, If Any

Martha Madden, 421 Fayetteville Street, Suite 100, Raleigh, NC 27601

The law enforcement agency identified below will hold the seized property subject to court order.

SWORN AND SUBSCRIBED TO BEFORE ME		Signature Of Law Enforcement Officer
Date	3/2/11	
Signature		Title Of Law Enforcement Officer
<input checked="" type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC	Special Agent
<input type="checkbox"/> Clerk Of Superior Court	<input type="checkbox"/> Magistrate	Name And Address Of Agency
		NC Secretary of State
		PO Box 29622
		Raleigh, NC 27626
ACKNOWLEDGMENT OF RECEIPT		
I, the undersigned, received a copy of this inventory.		
Date	Signature of Person Receiving Inventory	